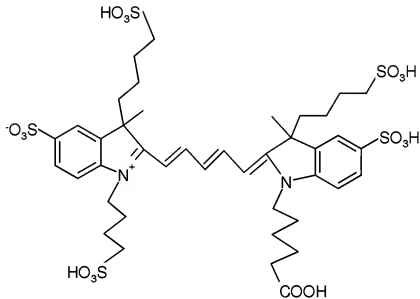


REMARKS/ARGUMENTS

Claims 1-18 are currently pending in the above-captioned application. The Examiner issued a restriction requirement in the Office Action in which it is alleged that there are four separate and distinct inventions claimed in the present application.

In response, Applicants elect the group 1 of the invention, with claims 1-14 with traverse. In addition, Applicants were required to elect a single species for the elected invention. In response, Applicants elect compound 2 with traverse. This compound is described in Example 2 (page 27 line 18 to page 30 line 15). The chemical structure is given at page 27 line 20 following, and is reproduced here for convenience:



Compound 2

Compound 2 corresponds to a compound of Formula I of present claim 1, wherein:

- (i) $Z^1 = Z^2$ = the carbon atoms necessary to complete a single phenyl ring;
- (ii) R^3 is sulfonic acid and R^4 is H;
- (iii) R^5 is sulfonic acid and R^6 is H;
- (iv) R^2 is the group -E-F, where E is a chain of 5 linked carbon atoms (i.e. a pentylene group), and F is a target bonding group which is -CO₂H;
- (v) The group from R^1/R^2 which is not -E-F, i.e. R^1 for Compound 2, is $-(CH_2)_k W$, where W is sulfonic acid and k is 4;
- (vi) $R^{11} = R^{14} = -(CH_2)_k W$, where W is sulfonic acid and k is 4;
- (vii) $R^{12} = R^{13} = C_1$ alkyl, i.e. methyl.

Compound 2 thus corresponds to the Examiner's Group 1:

"Claims 1-14 drawn to dimeric compounds of formula (1)".

Other Claims Covering Compound 2

Claim 2 - $R^{11} = R^{14} = - (CH_2)_k W$.

Claim 3 - one of R^{11}/R^{12} and R^{13}/R^{14} is $-(CH_2)_k W$, and the other of R^{11}/R^{12} plus R^{13}/R^{14} is C_{1-6} alkyl (methyl for Compound 2);

Claim 4 - Compound 2 has $W =$ sulfonic acid.

Claim 5 - Compound 2 has $W = -(CH_2)_4 SO_3H$

Claim 6 - Compound 2 has $Z^1 = Z^2 =$ phenyl.

Claim 11 - the group for Compound 2 is $-(CH_2)_5-$, which corresponds to: -

$p = 0$, $Q = -CHR'$ (with $R' = H$),

and $(CHR')_r = -(CH_2)_4-$ ie. $r = 4$.

Claim 12 - Compound 2 has $Q = -CHR'$

Claim 13 - Compound 2 has $-EF$ comprising a carboxypentyl group.

Claim 14 - Compound 2 is the compound named at (ii).

Applicants traverse these requirements for the reasons set forth below.

The Examiner suggests that the structural unit linking the inventions of Groups 1 to 4 is known in the prior art. The Examiner refers to page 91 of WO 02/26891 as evidence. That apparently refers to Claim 29 of WO 02/26891.

The Examiner's attention is drawn to the fact that the Compound of claim 29 of WO 02/26891 is defined such that R^3 is $-L-R_x$ or $-L-S_e$. Thus, the reactive group (R_x) or conjugated substance (S_e) is specifically attached at the 3-position of the indolinium ring.

In contrast, the $-E-F$ group of the present invention is required to be attached at at least one of positions, R^1 to R^7 . Those positions correspond to the aryl rings (R^3 to R^6 of present claim 1) or the indole N atoms (R^1 and R^2) only. The definitions of R^{11} to R^{14} of

present claim 1 must be chosen from $-(\text{CH}_2)_k\text{W}$ (where W= sulfonic acid or phosphonic acid) or C_{1-6} alkyl (only).

The overlap with the prior art as suggested by the Examiner therefore does not exist. Applicants therefore contend that the common structural unit linking the inventions of Groups 1 to 4 is in fact novel and unobvious, and that consequently the restriction requirement should be withdrawn.

In view of the remarks hereinabove, Applicants respectfully submit that claims 15-19 should be examined in the instant application with claims 1-14 of elected Group I.

Appl. No. 10/576,956
Amdt. Dated: October 30, 2008
Reply to Office action of October 08, 2008

This election is made without prejudice to the ability of Applicants to file divisional applications to non-elected inventions. Additionally, Applicants will cancel non-elected claims, if applicable, when a Notice of Allowability of the elected claims is received.

Respectfully submitted,

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